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09/690,159	10/17/2000	Oleg B. Rashkovskiy	INTL-0472-US (P10019)	2744

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EXAMINER

VU, NGOC K

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 07/08/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/690,159

Applicant(s)

RASHKOVSKIY, OLEG B.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7-10,17-25 and 28-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-10,17-25 and 28-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/22/2003 has been entered.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims 7-10, 17-25 and 28-41 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 34-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 34 recites the limitation "the advertiser's advertisement" in line 6. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7-10, 17-25 and 28-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levitan et al (US 20020073421A1) in view of Ballard (US 6182050 B1).

Regarding claim 7, Levitan discloses a method comprising: allowing the use of a content on a content receiver (for instance, primary component or television program); automatically interrupting the use of the content; enabling the receiver to temporarily replace the content with advertising (automatically interrupting the television program to present a commercial by replacing a portion of the television program with advertising or alternative component); accessing a predetermined rating assigned to one or more characteristics of the content, the rating based on the degree to which the one or more characteristics is present within content (determining a certain scene of the television program contains rating such as violence, sex, and explicit language ...etc); comparing a rating for the content to a rating of the advertisement content (comparing viewer's data with descriptive data of primary and alternative components the computer makes a decision on presentation of the primary component to viewer or replacement of the primary component by an alternative component) (see abstract; page 1, 0010; page 3, 0023).

Levitan does not specifically disclose the feature of the advertiser to specify the rating for one or more content characteristics. However, Ballard teaches that it is well known for an advertiser to prepare an ad based on the target audience that the advertiser desires to reach (see col. 1, lines 33-35; col. 2, lines 11-15). Therefore, it is well known in the art for an advertiser to specify a "rating" for content of the ad. The claimed "rating" limitation merely reads on the advertiser in Ballard selecting a target group and devising an ad for that particular group, i.e., the ad is "rated" for the intended audience. It would have been obvious to one of ordinary skill in the art to modify Levitan by including an advertiser to specify a rating for content of the

ad in order to prepare and provide a suitable advertisement for a target consumer or a target consumer groups.

Regarding claim 8, Levitan discloses enabling a variety of content (for instance, content information contained within plurality of channel) to be selected for play at any time (see page 2, 0019).

Regarding claim 9, Levitan further discloses automatically replacing the content with advertising after allowing content to be used (watching the television program) at a predetermined time period (see page 3, 0023).

Regarding claim 10, Levitan further discloses automatically determining at predetermined times whether to replace the content (makes a decision on presentation of the primary component to viewer or a replacement of the primary component by an alternative component) (see page 0023).

Regarding claim 31, Levitan discloses determining the rating assigned to one or more characteristics of the content. For instance, the system replaces a certain scene of the television program with a controversial matter, such as sex or violence, by a commercial (see page 1, 0007).

Regarding claim 17, Levitan discloses an article comprising a medium for storing instructions (programmable software) that enable a processor-based system performs: allowing the use of a content on a content receiver (for instance, primary component or television program); automatically interrupting the use of the content; enabling the receiver to temporarily replace the content with advertising (automatically interrupting the television program to present a commercial by replacing a portion of the television program with advertising or alternative component); accessing a predetermined rating assigned to one or more characteristics of the content, the rating based on the degree to which the one or more characteristics is present

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within content (determining a certain scene of the television program contains rating such as violence, sex, and explicit language ...etc); comparing a rating for the content to a rating of the advertisement content (comparing viewer's data with descriptive data of primary and alternative components the computer makes a decision on presentation of the primary component to viewer or replacement of the primary component by an alternative component) (see abstract; page 1, 0010; page 3, 0023).

Levitan does not specifically disclose the feature of the advertiser to specify the rating for one or more content characteristics. However, Ballard teaches that it is well known for an advertiser to prepare an ad based on the target audience that the advertiser desires to reach (see col. 1, lines 33-35; col. 2, lines 11-15). Therefore, it is well known in the art for an advertiser to specify a "rating" for content of the ad. The claimed "rating" limitation merely reads on the advertiser in Ballard selecting a target group and devising an ad for that particular group, i.e., the ad is "rated" for the intended audience. It would have been obvious to one of ordinary skill in the art to modify Levitan by including an advertiser to specify a rating for content of the ad in order to prepare and provide a suitable advertisement for a target consumer or a target consumer groups.

Regarding claim 18, Levitan discloses enabling a variety of content (for instance, content information contained within plurality of channel) to be selected for play at any time (see page 2, 0019).

Regarding claim 19, Levitan further discloses automatically replacing the content with advertising after allowing content to be used (watching the television program) at a predetermined time period (see page 3, 0023).

Regarding claim 20, Levitan further discloses automatically determining at predetermined times whether to replace the content (makes a decision on presentation of the

primary component to viewer or a replacement of the primary component by an alternative component) (see page 0023).

Regarding claim 32, Levitan discloses determining the rating assigned to one or more characteristics of the content. For instance, the system replaces a certain scene of the television program with a controversial matter, such as sex or violence, by a commercial (see page 1, 0007).

Regarding claim 21, Levitan discloses a system (14) comprising: a receiver (24) that receives the transmission of content (for instance, television program), the receiver including a shell (22) to enable the use of content to be interrupted and temporarily replaced with advertising (client computer 22 interrupts the television program to present a commercial by replacing a portion of the television program with advertising or alternative component. For instance, depending on viewer's preference the system may replace a certain scene of the television program by a commercial (see abstract; page 1, 0010; page 2, 0022); and storage (28) coupled to the receiver storing instruction that enable the receiver to access a predetermined rating assigned to one or more characteristics of the content, the rating based on the degree to which the one or more characteristics is present within content, the rating based on the degree to which the one or more characteristics is present within content (determining a certain scene of the television program contains rating such as violence, sex, and explicit language ...etc), and compare a rating for the content to a rating of the advertisement content (comparing viewer's data with descriptive data of primary and alternative components the computer makes a decision on presentation of the primary component to viewer or replacement of the primary component by an alternative component) (see abstract; page 1, 0010; page 3, 0023 and figure 2).

Levitan does not specifically disclose the feature of the advertiser to specify the rating for one or more content characteristics. However, Ballard teaches that it is well known for an advertiser to prepare an ad based on the target audience that the advertiser desires to reach (see col. 1, lines 33-35; col. 2, lines 11-15). Therefore, it is well known in the art for an advertiser to specify a "rating" for content of the ad. The claimed "rating" limitation merely reads on the advertiser in Ballard selecting a target group and devising an ad for that particular group, i.e., the ad is "rated" for the intended audience. It would have been obvious to one of ordinary skill in the art to modify Levitan by including an advertiser to specify a rating for content of the ad in order to prepare and provide a suitable advertisement for a target consumer or a target consumer groups.

Regarding claim 22, Levitan shows that the system is a television receiver (see figure 2).

Regarding claims 23-25, Levitan discloses that the receiver determines and outputs a targeted advertisement based on the television program content (see page 1, 0007, 0010; page 3, 0023).

Regarding claim 28, Levitan further discloses automatically replacing the content with advertising after allowing content to be used (watching the television program) at a predetermined time period (see page 3, 0023).

Regarding claim 29, Levitan further discloses automatically determining at predetermined times whether to replace the content (makes a decision on presentation of the primary component to viewer or a replacement of the primary component by an alternative component) (see page 0023).

Regarding claim 30, Levitan discloses enabling a variety of content (for instance, content information contained within plurality of channel) to be selected for play at any time (see page 2, 0019).



Regarding claim 32, Levitan discloses determining the rating assigned to one or more characteristics of the content. For instance, the system replaces a certain scene of the television program with a controversial matter, such as sex or violence, by a commercial (see page 1, 0007).

Regarding claim 34, Levitan discloses a method comprising: assigning a rating to content, the rating based on the degree to which a characteristic is present in the content (determining a certain scene of the television program contains rating such as violence, sex, and explicit language ...etc); comparing a rating for the content to a rating of the advertisement content (comparing viewer's data with descriptive data of primary and alternative components the computer makes a decision on presentation of the primary component to viewer or replacement of the primary component by an alternative component) (see abstract; page 1, 0010; page 3, 0023).

Levitan does not specifically disclose "a content rating required by an advertiser, the content rating required by the advertiser to indicate the characteristic with which the advertiser's advertisement may be associated". However, Ballard teaches that it is well known for an advertiser to prepare an ad based on the target audience that the advertiser desires to reach (see col. 1, lines 33-35; col. 2, lines 11-15). Therefore, it is well known in the art for an advertiser to specify a "rating" for content of the ad. The claimed "rating" limitation merely reads on the advertiser in Ballard selecting a target group and devising an ad for that particular group, i.e., the ad is "rated" for the intended audience. It would have been obvious to one of ordinary skill in the art to modify Levitan by including an advertiser to specify a rating for content of the ad in order to prepare and provide a suitable advertisement for a target consumer or a target consumer groups.

Regarding claims 35-36, Levitan as modified by Ballard further teaches that both demographic and affinity selection methods can be used to select a method for matching consumer and advertisement. The advertiser specifies demographics for the advertisement. The advertiser desires such advertisement be sent to consumer having an affinity for the specified a category that falls within such affinity request range (see Ballard, col. 3, lines 41-42, 57-60; col. 4, lines 1-3).

Regarding claim 37, Levitan discloses the content is television program (see abstract). It must be understood that the television program includes the musical content.

Regarding claims 38-39, Levitan discloses determining the rating assigned to one or more characteristics of the content. For instance, the system replaces a certain scene of the television program with a controversial matter, such as sex or violence, by a commercial (see page 1, 0007).

Regarding claim 40, Levitan discloses automatically interrupting the use of the content; to replace the content with advertising (automatically interrupting the television program to present a commercial by replacing a portion of the television program with advertising or alternative component) (see page 2, paragraph 022, abstract). Ballard modified Levitan further teaches that both demographic and affinity selection methods can be used to select a method for matching consumer and advertisement. The advertiser specifies demographics for the advertisement. The advertiser desires such advertisement be sent to consumer having an affinity for the specified a category that falls within such affinity request range (see Ballard, col. 3, lines 41-42, 57-60; col. 4, lines 1-3).

Regarding claim 41, Levitan further discloses automatically replacing the content with advertising after allowing content to be used (watching the television program) at a predetermined time period (see page 3, 0023).

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**Conclusion**


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Alexander et al (US 6177931 B1) teaches utilizing the viewer profile information to provide customized presentation of advertisement to the viewer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

NV  
June 28, 2003

  
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